

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 02 HANOI 001010

SIPDIS

STATE FOR G/TIP, EAP/BCLTV, EAP/RSP, INL/AEE

E.O. 12958: N/A

TAGS: PHUM KWMN KCRM ELAB VM OMIG LABOR TIP

SUBJECT: LABOR EXPORT SITUATION AND VIETNAM'S TIER  
PLACEMENT

REF: A. HANOI 652 (TIP REPORT SUBMISSION) B. HANOI 336  
(LABOR REGULATORY CHANGES)

1. (U) Summary and action request: Embassy has reviewed the suggested language in the Trafficking in Persons report and would like to clarify some issues that appear to have led G/TIP to recommend a "watch list" designation for Vietnam. The GVN is engaged in monitoring and investigation of work conditions and welfare of Vietnamese overseas laborers, both through stationing dedicated labor attaches in key labor export market countries and the use of central government delegations to investigate the situation in areas with high numbers of worker complaints, such as Malaysia. In addition, post has not been able to confirm G/TIP's findings regarding the legislative connection between labor export companies, the police, and victims' families. Our work with the Ministry of Labor, Invalids, and Social Affairs (MOLISA), with Vietnamese attorneys, and with our own experienced staff has, on the contrary, uncovered no sections of Vietnamese law equivalent to those quoted in recent G/TIP emails. If there is more information available, please provide substantiation of the claim that the revised labor code provides for police harassment of the families of overseas workers. End summary and action request.

2. (U) The GVN remains closely engaged on the issue of exploitation of Vietnamese labor overseas. This engagement manifested itself most recently in the GVN's taking an active role in monitoring conditions for Vietnamese workers overseas and acting to combat abuses when necessary. One recent example: on April 7, Vietnamese television reported that MOLISA's Department of Overseas Labor sent an investigative mission of GVN officials in March to Malaysia to examine labor conditions for Vietnamese workers. MOLISA official Tran Xuan Nhat confirmed April 8 that the MOLISA investigation trip to Malaysia was one of "several" trips GVN officials had made to gauge the situation in economies with high numbers of Vietnamese workers. Following the MOLISA trip, Vietnamese Ambassador to Malaysia Nguyen Quoc Dung issued a public statement warning potential Vietnamese overseas laborers that working in Malaysia entailed "many risks" and cautioned that Malaysia was "not a market for Vietnamese to make fortunes."

3. (U) In addition to these trips by Vietnam-based officials, the GVN established and filled labor attaché positions in SRV Embassies in the six countries/economies with the greatest number of Vietnamese laborers. Among other duties, these attaches are charged with investigating Vietnamese worker claims of abuse or fraud. They also have the authority and funding to assist Vietnamese workers who encounter problems overseas, including repatriation if necessary. (Ref. B)

4. (U) MOLISA Deputy Director General of the Department of Overseas Labor Nguyen Ngoc Quynh confirmed in an April 9 meeting with Econoff that MOLISA has the responsibility for monitoring compliance with labor export regulations. In CY 2004 MOLISA has already exercised this authority nine times, suspending the license of one labor export company and warning eight others, he said. (Note: these enforcement activities in CY 2004 are in addition to the ten license revocations and eight suspensions carried out from 2001-2003, reported refel B. End note.) For cases involving significant violations of the law or abuse of workers, MOLISA referred cases to the Ministry of Public Security, he added. In 2003, one of these cases resulted in a death sentence for a "labor exporter" who defrauded hundreds of workers seeking overseas jobs, Quynh noted.

5. (U) An Embassy review of the Vietnamese labor code failed to uncover any documentation substantiating Washington's assertion that the law authorizes unit "A-19" of the "political police" to contact workers' families in the event of a dispute, or any mention whatsoever of police or a unit A-19. Pham Thu Huong of the Hanoi Lawyers' Association stated April 8 that "nowhere in the Revised Labor Code discusses a connection between laborers, agents, and the police." MOLISA's Nhat separately noted that, according to Vietnamese law, it is the right of the labor export company (or any other individual or entity) to report "trouble or complaints" to the police, but added that the labor code

would not provide any authority to the police to contact family members or sponsors in connection with a case.

16. (U) Comment: In terms of the issue of labor exploitation, Vietnam's performance has improved substantially since last year's TIP report. The revised labor code of 2003, currently in the process of implementation, represents a serious effort by the GVN to address the problems of laborers in general and the problems of overseas laborers in particular. The issue of Vietnamese workers maltreated overseas - and defrauded at home - has been widely covered in the press and in the broadcast media, and has been a priority for the GVN. More than ever before, Vietnamese laborers overseas are receiving the attention of their government and assistance when it is needed. Proof of this can be seen in the numerous fines, suspensions, and license revocations handed out to crooked labor export companies over the last year, as well as stiff sentences for people involved in exploitation of overseas labor (Ref A). These developments represent real progress in Vietnam's struggle against labor exploitation and should be considered a mitigating factor in the decision as to whether Vietnam merits "watch list" status.

BURGHARDT